

CHARLES B. WALKER, Executive Director
City of San Diego Ethics Commission
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Complainant

BEFORE THE CITY OF SAN DIEGO
ETHICS COMMISSION

In re the Matter of:)	Case No.: No. C02-13
)	
SAN DIEGO CITY FIREFIGHTERS)	STIPULATION, DECISION, AND ORDER
LOCAL 145,)	
)	
Respondent.)	
)	

THE PARTIES STIPULATE AS FOLLOWS:

1. Complainant Charles B. Walker is the Executive Director of the City of San Diego Ethics Commission [Ethics Commission]. The Ethics Commission is charged with the duty to administer, implement, and enforce local governmental ethics laws contained in the San Diego Municipal Code [SDMC] relating to, among other things, campaign finance as set forth in the City's Campaign Control Ordinance [ECCO].

2. Respondent San Diego City Firefighters Local 145 [Local 145] is an organization registered with the State of California as a General Purpose Recipient Committee (ID 741949) that received contributions of \$1,000 or more in a calendar year to support or oppose state or local candidates in connection with the March 5, 2002, Primary Election.

3. This Stipulation, Decision, and Order [Stipulation] will be submitted for consideration by the Ethics Commission at its next scheduled meeting, and the agreements contained herein are contingent upon the approval of the Stipulation and the accompanying Decision and Order by the Ethics Commission.

1 4. This Stipulation resolves all factual and legal issues raised in this matter by the Ethics
2 Commission without the necessity of holding an administrative hearing to determine the
3 Respondent's liability.

4 5. As to the violation stated in Count 1, Respondent understands and knowingly and
5 voluntarily waives any and all procedural rights under the SDMC, including, but not limited to:
6 a determination of probable cause; the issuance and receipt of an administrative complaint; the
7 right to appear personally in any administrative hearing held in this matter; the right to confront
8 and cross-examine witnesses testifying at a hearing; the right to subpoena witnesses to testify at a
9 hearing; and the right to have the Ethics Commission or an impartial hearing officer hear this
10 matter.

11 6. The parties agree that this Stipulation is binding upon the Ethics Commission, but is not
12 binding upon any other law enforcement or government agency and does not preclude the Ethics
13 Commission from cooperating with or assisting any other law enforcement or government
14 agency with regard to this or any other related matter. In the event that the Ethics Commission
15 receives a future complaint alleging a violation of the provisions of ECCO that are the subject of
16 this Stipulation, the Ethics Commission shall review the complaint to determine whether
17 Respondent has complied with the terms of this Stipulation. If such a review results in a
18 determination that Respondent has fully complied with the terms of this Stipulation, the
19 complaint shall promptly be dismissed. If the review results in a determination that the
20 Respondent has not complied with the terms of this Stipulation, the Ethics Commission may
21 elect to either initiate a new enforcement action and/or seek an order from a court of law
22 enforcing the terms of this Stipulation.

23 7. The parties agree that it is their intent in entering this stipulation to comply with the law
24 currently contained in the Political Reform Act [PRA] and ECCO in a manner that meets the
25 respective goals and objectives of the parties. If there are any changes in these laws that have a
26 material impact upon the implementation of this Stipulation, each party shall participate in a
27 good faith renegotiation of this Stipulation and shall not unreasonably withhold approval of any
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1 requested modifications to the Stipulation made by either party when it can be demonstrated that
2 the requested modification is necessitated or warranted by changes in the law.

3 8. The parties agree that in the event the Ethics Commission refuses to accept this
4 Stipulation, it shall become null and void. Respondent further agrees that in the event the Ethics
5 Commission rejects the Stipulation and a full evidentiary hearing before the City Ethics
6 Commission becomes necessary, no member of the Ethics Commission or its staff shall be
7 disqualified because of prior consideration of this Stipulation.

8 **SUMMARY OF FACTS**

9 9. On January 18, 2002, Respondent filed a five page Campaign Disclosure Form,
10 commonly known as a Form 460 Pre-Election Statement, with the Office of the City Clerk for
11 the City of San Diego covering the period from January 1, 2002, through January 19, 2002, in
12 connection with the March 5, 2002, Primary Election for the City of San Diego.

13 10. Schedule D of the Campaign Disclosure Form described above in Paragraph 9 reflects
14 independent expenditures made by the Respondent in connection with the March 5, 2002,
15 Primary Election for the City of San Diego:

<u>Date</u>	<u>Candidate</u>	<u>Amount</u>
01/07/02	Mike Zucchet	\$3,461.25
01/07/02	Donna Frye	\$2,768.00
01/07/02	Ralph Inzunza	\$2,768.00

20 11. On the Summary Page of the Campaign Disclosure Form described above in
21 Paragraph 9, no contributions were reported by the Respondent, but a notation was made on the
22 contribution form showing a symbol of "N/A" in the contribution column.

23 **COUNT 1**

24 **[Violation of SDMC Section 27.2921(d) and 27.2931]**

25 12. Section 27.2921(d) of ECCO provides that contributions received by a candidate or
26 committee must be disclosed in the manner required by section 84211 of the California
27 Government Code. Section 84211 mandates the contents of campaign disclosure statements and
28 reads in pertinent part as follows:

1 Each campaign statement required by this article shall contain all of the following
2 information: . . . (c) The total amount of contributions received during the period
3 covered by the campaign statement from persons who have given a cumulative
4 amount of one hundred dollars (\$100) or more. (d) The total amount of
5 contributions received during the period covered by the campaign statement from
6 persons who have given a cumulative amount of less than one hundred dollars
7 (\$100).

8 13. Section 27.2931 of ECCO requires candidates and campaign committees to file
9 campaign statements in the time and manner required by California Government Code
10 sections 81000, et seq. Section 27.2931 further provides that “[c]ompliance with the disclosure
11 requirements of California Government Code section 81000, et seq. is deemed to be compliance
12 with this section.”

13 14. As described above in Paragraph 11, Respondent failed to reflect any contributions on
14 the Campaign Disclosure Form referenced in Paragraph 9, in violation of ECCO.

15 **STIPULATIONS AND ORDER**

16 **Authority of City to Regulate Contributions**

17 15. The parties acknowledge that Attachment A to this Stipulation consists of a chronology
18 of events that illustrates the typical involvement of Local 145 in making independent
19 expenditures supporting candidates for elective office in City of San Diego elections.

20 16. The parties acknowledge that Attachment B to this Stipulation is a flowchart that
21 illustrates a mutually agreeable process for Local 145 to follow that will fully comply with
22 ECCO.

23 17. Respondent agrees that any committee it creates that makes expenditures in City of
24 San Diego elections shall establish its own campaign contribution checking account at an office
25 of a bank or other financial institution providing checking account services located in the City of
26 San Diego.

27 18. Respondent agrees that any committee it creates that makes expenditures in City of
28 San Diego elections shall, upon request, make available to any member of Local 145 an
itemization of that member’s dues that have been expended to support a particular candidate for
elective office in the City of San Diego.

1 19. In accordance with regulations promulgated by the Fair Political Practices
2 Commission, and set forth at title 2, section 18421.1 of the California Code of Regulations,
3 contributions collected by means of membership dues are considered “received” on the earlier
4 of:

5 (1) The date the General Purpose Recipient Committee or Primarily Formed
6 Recipient Committee obtains possession or control of the contribution; or

7 (2) Within 60 days after the receipt of the payment by Local 145.

8 20. For purposes of reporting the contributions described in paragraph 19, it is agreed by
9 the parties that reporting member dues as contributions is not required until after funds have been
10 transferred from Local 145’s general account to its committee checking account. Once such
11 transfer takes place, it is acknowledged and understood by the parties that the date of receipt of
12 the dues/contributions by the sponsor entity (Local 145) may predate the date funds were
13 transferred to that committee. The sponsored committee (Local 145’s General Purpose Recipient
14 Committee or Primarily Formed Recipient Committee) shall indicate on its campaign disclosure
15 form that contributions were originally dues collected by Local 145 in an earlier reporting
16 period.

17 21. The parties acknowledge, understand, and agree that this Stipulation applies solely to
18 Local 145’s participation in campaigns for elective office in the City of San Diego, and is not
19 intended to control any aspect of Local 145’s ability to establish other political committees to
20 participate in elections in other cities or at the County, State, or Federal level.

21 **FACTORS IN MITIGATION**

22 22. Respondent has not shown any intention to conceal, deceive, or mislead. Respondent
23 has demonstrated an attempt to comply with the spirit and intent of ECCO. Prior to the events
24 addressed in Count 1, Respondent regularly filed recipient committee reports in conformance
25 with instructions received from the San Diego City Clerk’s Office. Upon first being notified by
26 the City Clerk in April 2002 that recently filed recipient committee reports lacked a figure for
27 contributions received, Local 145 promptly amended its statements in compliance with and in
28 reliance on written instructions received from the City Clerk and the Fair Political Practices

Commission, thereby curing the type of technical violation subsequently put at issue in this Stipulation. Respondent has been sincere and has cooperated fully with Ethics Commission staff in assisting with the investigation. Because of Respondent's good faith effort to comply with ECCO, the technical nature of the violation, and the general agreement that a legislative review is needed with regard to the regulations contained in ECCO pertaining to contributions to committees making independent expenditures, it is agreed by the parties that a fine is not warranted in this matter.

Dated: _____, 2002

CITY OF SAN DIEGO ETHICS COMMISSION

By: _____

CHARLES B. WALKER
Executive Director

Dated: _____, 2002

SAN DIEGO CITY FIREFIGHTERS LOCAL 145

By: _____

RONALD SAATHOFF
President

DECISION AND ORDER

The Ethics Commission has considered the above Stipulation at its meeting on October 10, 2002. The Ethics Commission hereby approves the Stipulation.

DATED: _____, 2002

DOROTHY LEONARD, Chairperson
SAN DIEGO ETHICS COMMISSION